

Washington, DC - Congressmen Jerry Kleczka (D-WI) and Pete Stark (D-CA) today introduced the Hospital Investment Act of 2003 to crack down on profit-skimming 'boutique' hospitals. The legislation prohibits physicians from referring their patients to those hospitals in which they have a preferential deal that ensures them a special share of the profits.

Instead of providing the comprehensive services offered at community hospitals, boutique hospitals that focus on one particular area of procedures, such as heart and orthopedic services, which are high-volume and high-profit. Consequently, nearby full-scale hospitals are deprived of their most lucrative business and must increasingly rely on Medicare and local communities to meet their bottom line.

Investments in boutique hospital ventures are typically marketed to doctors in a position to refer patients to the facility. These joint ventures usually offer investor-physicians a large share of the profits, which may induce to them to over-utilize services and base decisions on facility revenues rather than on the needs of the patient.

The bill introduced today blocks these efforts to circumvent current laws that forbid physicians from referring patients to health facilities-such as clinical laboratories and radiology centers-from which they benefit financially. One exception to these laws allows physician self-referrals to "whole hospitals" that typically offer a wide array of medical services. This exception has provided a loophole by which physicians can legally refer their patients to freestanding, boutique hospitals where they have a direct personal financial interest.

The Hospital Investment Act of 2003 would close the hospital loophole used by boutiques by effectively prohibiting preferential physician hospital ownership. Under the legislation, physicians would be allowed to refer patients to a hospital in which they had an ownership interest, but only if the interest was purchased on terms also available to the general public at the time. Failure to comply would result in civil penalties of up to \$15,000 per referral and up to \$100,000 for each referral scheme. The physicians and hospitals would also be denied participation in the Medicare program.

"Our bill provides tough medicine for an unhealthy trend," Congressman Kleczka said. "Boutique hospitals siphon off the most profitable business to line the pockets of investors, threatening the very existence of full-service hospitals on which my constituents depend. To remain economically viable, community hospitals will have no choice but to close unprofitable units and boost their fees, which will hurt patient care and contribute to skyrocketing health care costs throughout Milwaukee and the nation."

“We enacted laws strictly limiting physician self referral because we know that physician ownership affects physician behavior, leads to over-utilization of services, and sometimes the provision of unnecessary or inappropriate care. Now, the same phenomenon is occurring in the boutique hospital industry because physicians have found a loophole in the law. Our bill closes that loophole and will put a halt to this dangerous trend that threatens the viability of our community hospitals. The longer we wait to act, the more difficult this trend will be to reverse,” said Rep. Stark.

Congressmen Klecza and Stark are both members of the House Committee on Ways & Means Subcommittee on Health, where the bill will be referred.